UNITED STATES PATENT AND TRADEMARK OFFICE

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HARRITY & HARRITY, LLP
11350 RANDOM HILLS ROAD
SUITE 600
FAIRFAX, VA 22030

EXAMINER
D AGOSTA, STEPHEN M

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 August 2010*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,8-15,17-21 and 31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5, 8-15, 17-21 and 31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8-25-

2010 has been entered.

1. A new rejection is found below. It includes both a USC 112 and USC 101

rejection (clarification is sought).

2. A more ***favorable outcome may occur*** if the applicant were to amend as

follows:

i) Claim 15 + claim 4 + claim 17

This will make a novel claim but will NOT make any of the others novel (unless

the applicant re-writes them to parallel all of the limitations as found in claim 15).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 8-15, 17-21 and 31 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is confusing in that it appears to put forth put forth TWO distinct display conditions but really there is only one condition being put forth (eg. the geographical display condition) putting aside the time limit condition.

The claim(s) state:

"...*displaying the message in the portable electronic device if the at least one display condition including the geographical display condition is fulfilled*".

To be clear, the examiner interprets this as meaning the message is displayed/not displayed depending upon IF the display condition is met (which is the geographical condition).

It is the examiner's position that the claim be re-written to put forth something that defines the "display condition" as being the "geographical location", such as:

"...wherein the at least one display condition is a geographical location and *displaying the message in the portable electronic device if said geographical display condition is fulfilled*".

This example clearly ties the "display condition" to the "geographic location" and rules out any other interpretation (eg. if somehow there are TWO display conditions being put forth?).

NOTE that the applicant's specification continually defines the term "display condition" as being the "geographical location".

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter based upon consideration of all of the relevant factors with respect to the claim as a whole, **claim(s) 20 and 21** held to claim an abstract idea, and is/are therefore rejected as ineligible subject matter under 35 U.S.C. 101. The rationale for this finding is explained below:

Claims 20 and 21 are not explicitly limited to a certain type of computer readable medium and the specification clearly states that implementations can be either HARDWARE or SOFTWARE. Hence a software-only implementation is non-statutory.

The applicant can amend the claims to include "**tangible, non-transitory**" to rule out the computer readable medium being software-only, signals, carrier waves, etc..

NOTE that the other independent claims are statutory since they put forth an electronic device/apparatus and a tangible display apparatus.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 8-15 and 17-21 and 31 rejected under 35 U.S.C. 103(a) as being

unpatentable over Anderlind and further in view of {Ratschunas **or** Eisinger} *(all prior*

art cited is from applicant's IDS) and Stevens.

As per **claims 1, 5, 9 and 13-14, 15, 17-21 and 31,** Anderlind teaches a method

for conditional displaying of an electronic message comprising at least one display

condition for the message in a "message server" (Abstract, figure 4 and Para's #37 -

#57), characterized by the steps of:

receiving the message from an external device (figure 4, S12)

determining the geographical position of the portable electronic device (Para

#51)

determining whether the geographical position fulfills a geographical display

condition of the message (Para #51); and

displaying the message in the portable electronic device if the at least one

display condition is fulfilled (Para #51)

but is silent on the portable mobile device performing the functions/filtering and

including the geographical display condition.

Anderlind teaches a "message server" as providing the filtering since he claims

that filtering by the mobile will cause battery drain (Para #61):

[0065] The method and system of the invention facilitates lower power consumption and

advanced longevity of battery charges by allocating filtering tasks to the wireless data server, as

opposed to the mobile station.

Hence one skilled understands that Anderlind has considered the filtering to be performed at EITHER the mobile or in the network (See Para #3 which teaches client-station filterin).

Further to this point is **Ratschunas**, who teaches a message filtering design whereby _the message can be filtered at either the network or mobile device_ (Abstract teaches viewing a message, also see figure 1 showing mobile user and network for receiving/sending text/SMS/etc messages. While Ratschunas focuses on conditional "transmission" of a message, he also states that one can also provide for conditional "reception" of a message, page 5, L18-25 teaches the mobile determining to view/display a message from a particular originator. Also see page 5, L18 to page 6, L32. See page 5, L9-16 teaches location determination which is well known as well as page 5, L18 to page 6 L32 teaches using several different conditions in order to determine if the message should be displayed, eg. is the originator in the device's directory/database or belong to a certain group, willingness to receive a certain type of message, is the user active or inactive, etc..

Note that Ratschunas **or Eisinger teach message transmission as based on location/position:**

a. Ratschunas does teach determining if a message is to be "sent" based on the location of the user (page 2, L22-27 teaches determining if a message should be sent as based on the location of the user):

"..When sending messages, it is often not always useful to transmit a message to a recipient MS. For example, in case such a message contains tourist information concerning a particular town, it is not useful to send this message to a user, who has left this town".

Hence one skilled would also seek to provide this same service as based on receiving a message (eg. if the user is not in that area/town, then don't display a message if received).

b. Similarly, **Eisinger** teaches a sending unit transmitting a message to users within a certain geographical area/position (Abstract, figure 1, Para #1-17)

It would have been obvious to one skilled in the art at the time of the invention to modify Anderlind, such that the portable mobile device performing the functions/filtering, to provide means for either the network or mobile/client to perform filtering.

With further regard to claims 5, 15 and 21, Anderlind teaches filtering a message as based on the location of the user while Ratschnas teaches filtering on various parameters (eg. location, etc) as based on the sending or receiving of a message, which reads on "comprising the step of entering said message, characterized by the steps of entering a at least one display condition comprising a geographical display condition for conditional displaying of the message; appending said display condition to said message; and entering a receiver address to which the message should be sent". As seen above, if a user addresses/sends a message (per Ratschnas) AFTER a user has left an area/town, then it wouldn't be delivered. The combination of art also teaches "and entering display conditions set by a transmitting user for conditional display of the message comprising: entering area(s)/location(s) in which the device should be located when the message is displayed; storing the message in the service node until the device is within the entered area and the forwarding the message to the recipient when in the entered area" since Anderlind teaches conditional message delivery, Ratschnas teaches the mobile processing/filtering messages and Eisinger teaches determining if/when **two** devices are proximate each other to receive a message. Also note that **Anderlind teaches only sending a message if the recipient is within a certain area/location**. **Also Ratschunas teaches determining if a message is to be "sent" based on the location of the user** (page 2, L22-27 teaches determining if a message should be sent as based on the location of the user):

"..When sending messages, it is often not always useful to transmit a message to a recipient MS. For example, in case such a message contains tourist information concerning a particular town, it is not useful to send this message to a user, who has left this town".

Hence one skilled would also seek to provide this same service as based on receiving a message (eg. if the user is not in that area/town, then don't display a message if received).

Similarly, Eisinger teaches a sending unit transmitting a message to users within a certain geographical area/position (Abstract, figure 1, Para #1-17).

With further regard to claims 5, 15, 21 and 31, Stevens is put forth to teach the appending of the geographical area to the message which allows the recipient to understand a) why they're receiving the message and b) where the area(s) of concern are (eg. nearby, approaching, etc) -- see C4, L50-67:

The emergency warning system 102" generates information describing **the emergency situation and information identifying the geographic area** 108" that is or can be affected by the emergency situation. The emergency situation information 118" includes details about the emergency and possibly includes safety related instructions the content of which is dependent on the particular type of emergency situation. Again, the current emergency situation can be one of a variety of potentially dangerous situations including, for example, a severe weather condition, hostage situation or hazardous material leak. The severe weather conditions can include a watch or warning issued for a hurricane, flash flood, tornado, winter storm or thunderstorm. Whereas, **the geographic information 120" includes details that describe the geographic area 108" associated with the current or potential emergency situation.** These details can be the coordinates or grids on a map which outline the geographical area 108". Or, the details that describe the geographic area 108" can be a list of the counties, townships or cities threatened by the emergency situation.

Also note that Stevens (C4, L17-35) can provide means for the user in input display conditions intended for the recipient (eg. themselves or others) as per at east **claim 5**. Also note for **claim 15** that Stevens can have a message sent/received if/when the user may be located in multiple locations or as based on a specific event.

As per **claim 2,** the combo teaches claim 1/5/13 or 14/19, where the determining whether the geographical position fulfills the geographical display condition comprises determining whether the portable electronic device is located within a geographical area specified by the geographical display condition (Anderlind teaches determining the user's location and/or if the user is near a certain location, Para #51, while Eisinger teaches a sending unit transmitting a message to users within a certain geographical area/position (Abstract, figure 1, Para #1-17)

As per **claims 3, 8, 11,** the combo teaches claim 1 or 2/5/9 or 10/any of 13 to 15/19, where the determining whether the geographical position fulfills the display condition comprises determining whether the portable electronic device is located within a certain distance specified by the geographical display condition from the location of another electronic device, which has transmitted the message (see Eisinger who teaches a sending unit transmitting a message to users within a certain geographical area/position but not to users outside that certain area with regard to the sending unit (Abstract, figure 1, Para #1-17, specifically Para #16).

As per **claims 4 and 10,** the combo teaches to any of the claims 1 to 3/9, further comprising the step of determining whether a time limit of a time display condition for indicating a final display time of the message has lapsed, wherein the step of displaying is executed if said time limit has not lapsed when the geographical display condition is fulfilled (Anderlind, Para #7 teaches using a TIMER, which can be used to displaying time-window. He also teaches providing time-sensitive data such as Stock or Sports scores which one skilled would provide a timer for as well, see Para #49. One skilled understands that any message that is time sensitive which has its timer expired will be purged).

As per **claim 12,** the combo teaches any the claims 9 to 11 , further comprising the step of receiving the geographical 35 position of the electronic communication device being a portable electronic communication device, from said device itself (the prior art all teach determining the location of the mobile which can occur in many different well known manners, to include Triangulation (AOA, TDOA, etc), use of GPS onboard the mobile, etc).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jinsong Hu can be reached on 571-272-3965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. D'Agosta/
Primary Examiner, Art Unit 2617